

**REMARKS**

Claims 5-7 and 11-21 constitute the pending claims in the present application. Although the Office Action states that claims 7, 11, 14-18, 20, and 21 are withdrawn for consideration, the previous Office Action considered these claims. No reasons have been given for their subsequent withdrawal, and no reasons for withdrawal are apparent from the subject matter of the claims. Accordingly, Applicants have not designated these claims as withdrawn. Clarification is respectfully requested. In addition, the Examiner is respectfully reminded that upon allowance of a generic claim, withdrawn claims properly dependent on the generic claim must be reinstated and considered. MPEP 809.

Applicants respectfully request reconsideration in view of the following remarks. Issues raised by the Examiner will be addressed below in the order they appear in the prior Office Action.

***Rejection under 35 U.S.C. § 102***

Claims 5, 6, 12, 13, and 19 are rejected under 35 U.S.C. §102(a) and (e) as being anticipated by Kosak et al. Applicants respectfully traverse this rejection.

Claim 5 is directed to a composition comprising a cyclodextrin-containing polymer and a therapeutic agent and a complexing agent comprising at least one functional group and at least one host/guest moiety that forms an inclusion complex with a host/guest moiety of said polymer, wherein the polymer, the therapeutic agent, and the complexing agent are separate molecules. Claims 6, 12, 13, and 19 all depend from claim 5.

Claim 5 has been amended to clarify that the polymer, the therapeutic agent, and the complexing agent are separate molecules, i.e., that they are not covalently attached. The cited reference does not teach or suggest providing these entities as separate molecules, as taught and exemplified by the present specification. This amendment does not exclude the possibility that additional therapeutic agents might be attached to the polymer and/or the complexing agent, but only clarifies that there is at least one discrete therapeutic agent in the composition that is covalently linked to neither the polymer or the complexing agent. Further, the amendment does

not exclude the possibility that the therapeutic agent might form an inclusion complex with the polymer and/or the complexing agent, but only excludes covalent attachment.

There is no teaching or suggestion in Kosak that the antibody be included in a complexing agent that includes a host/guest moiety that is separate from yet forms an inclusion complex with a cyclodextrin unit of the Kosak polymer. Instead, the antibody is directly and covalently coupled to the polymer. The 2-aminoanthracene is also coupled to the polymer covalently, rather than through an inclusion complex as recited in claim 5. Accordingly, the cited reference fails to anticipate or render obvious the presently claimed subject matter.

### ***Double Patenting Rejection***

Claims 5-7 and 11-21 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 5-7 and 11-21 of U.S. Patent Application No. 10/021,312. Applicants will submit a terminal disclaimer, if necessary, upon indication of allowability.

### **CONCLUSION**

In view of the foregoing amendments and remarks, Applicants submit that the pending claims are in condition for allowance. Early and favorable reconsideration is respectfully solicited. The Examiner may address any questions raised by this submission to the undersigned at 617-951-7000. Should an extension of time be required, Applicants hereby petition for same and request that the extension fee and any other fee required for timely consideration of this submission be charged to **Deposit Account No. 18-1945**.

Date: May 11, 2004

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Respectfully Submitted,



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